

United States Bankruptcy Court
Western District of New York

In re:
The Diocese of Rochester
Debtor

Case No. 19-20905-PRW
Chapter 11

District/off: 0209-2
Date Rcvd: Oct 23, 2023

User: admin
Form ID: pdforder

Page 1 of 10
Total Noticed: 3

CERTIFICATE OF NOTICE

The following symbols are used throughout this certificate:

Symbol **Definition**

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 25, 2023:

Recip ID	Recipient Name and Address
db	+ The Diocese of Rochester, 1150 Buffalo Road, Rochester, NY 14624-1890
pr	+ Lisa M. Passero, The Diocese of Rochester, 1150 Buffalo Road, Rochester, NY 14624-1890

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
smg	+ Email/Text: ustpregion02.ro.ecf@usdoj.gov	Oct 23 2023 18:23:00	Office of the U.S. Trustee, 100 State Street, Room 6090, Rochester, NY 14614-1315

TOTAL: 1

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 25, 2023

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 23, 2023 at the address(es) listed below:

Name	Email Address
Adam Horowitz	on behalf of Creditor Certain Sexual Abuse Claimants adam@adamhorowitzlaw.com
Adam Horowitz	on behalf of Notice of Appearance Creditor Sexual Abuse Survivor/Creditor adam@adamhorowitzlaw.com
Adam Horowitz	on behalf of Creditor 31 Claimants adam@adamhorowitzlaw.com

Adam Horowitz on behalf of Attorney Horowitz Law Claimants adam@adamhorowitzlaw.com
Amy Keller on behalf of Defendant AB 100 Doe et al akeller@lglaw.com, sfischer@lglaw.com
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Andrew Mina on behalf of Interested Party London Market Insurers amina@duanemorris.com
Annette Rolain on behalf of Interested Party First State Insurance Company arolain@rugerilaw.com
Betty Luu on behalf of Interested Party London Market Insurers bluu@duanemorris.com
Brianna M Espeland on behalf of Creditor Kenneth Cubiotti brianna@jvwlaw.net
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Catalina Sugayan on behalf of Defendant Certain Underwriters at Lloyd's London catalina.sugayan@clydeco.us, Nancy.Lima@clydeco.us
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Catalina Sugayan on behalf of Defendant HDI Global Specialty SE catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
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Catalina Sugayan on behalf of Interested Party Certain Underwriters at Lloyd's London catalina.sugayan@clydeco.us, Nancy.Lima@clydeco.us
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TOTAL: 233

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:) Case No. 19-20905 (PRW)
THE DIOCESE OF ROCHESTER,) Chapter 11
Debtor.¹)

)

STIPULATION AND ORDER REGARDING SCHEDULING OF VARIOUS MATTERS

It is hereby stipulated and agreed, by and through the undersigned counsel of record for (a) The Diocese of Rochester (the “Diocese” or the “Debtor”), (b) the Official Committee of Unsecured Creditors of the Diocese of Rochester (the “Committee”), and (c) The Continental Insurance Company (“CNA” and, together with the Diocese and the Committee, the “Parties”), as follows:

RECITALS

A. On June 23, 2022, the Diocese filed its *Motion to Approve Proposed Insurance Settlement to Fund Survivor Compensation Trust* (the “Insurance Settlement Motion”) [D.I. 1538].

B. On June 30, 2022, the Committee filed its *Official Committee of Unsecured Creditors’ Objection to Debtor’s Motion to Approve Proposed Insurance Settlements to Fund Survivor Compensation Trust* (the “Committee Insurance Settlement Objection”) [D.I. 1555].

C. On July 22, 2022, the Diocese filed objections to certain claims asserted by Sexual Abuse Claimants (collectively, the “Diocese Claim Objections”) [D.I. 1576–1641, 1643 and 1644].

D. On November 3, 2022, the Debtor filed its *Motion for Entry of an Order (I)*

¹ The Debtor in this chapter 11 case is The Diocese of Rochester, the last four digits of its federal tax identification number are 5765, and its mailing address is 1150 Buffalo Road, Rochester, NY 14624.

Approving the RSA, (II) Authorizing the Diocese to Enter Into and Perform Under the RSA; (III) Approving the Committee Settlement, and (IV) Granting Related Relief (the “RSA Motion”)
[D.I. 1790].

E. On March 23, 2023, CNA filed objections to certain claims asserted by Sexual Abuse Claimants (collectively, the “Initial CNA Claims Objections”) [D.I. 2003-40]. In addition, CNA has advised the Debtor and the Committee that it may file additional objections to certain claims asserted by Sexual Abuse Claimants (the “CNA Additional Claims Objections” and, together with the CNA Claims Objections, the “CNA Claims Objections”).

F. On April 11, 2023, the Committee filed its *Motion of the Official Committee of Unsecured Creditors for Entry of an Order (I) Dismissing Claim Objections Filed by Continental Insurance Company for (A) Lack of Standing or (B) Lack of Jurisdiction or, in the Alternative, (II) Staying the Claim Objections* (the “Committee CNA Claim Standing Motion”) [D.I. 2063].

G. On May 1, 2023, CNA filed its *Continental’s Opposition to Motion of the Official Committee of Unsecured Creditors for Entry of an Order (I) Dismissing Claim Objections Filed by Continental Insurance Company for (A) Lack of Standing or (B) Lack of Jurisdiction or, in the Alternative, (II) Staying the Claim Objections* (the “CNA Claim Standing Objection”) [D.I. 2110].

H. On August 22, 2023, the Committee filed its *Motion of the Official Committee of Unsecured Creditors for an Order Granting Leave, Standing and Authority to Prosecute Certain Causes of Action on Behalf of the Debtor and Its Estate* (the “Committee Derivative Standing Motion”) [D.I. 2203].

I. On October 2, 2023, CNA filed *CNA’s Opposition to Motion for an Order Granting Leave, Standing and Authority to Prosecute Certain Causes of Action on Behalf of the*

Debtor and Its Estate (the “CNA Derivative Standing Opposition”) [D.I. 2249].

J. On September 13, 2023, the Diocese and the Committee filed the *First Amended Joint Chapter 11 Plan of Reorganization for the Diocese of Rochester* Dated September 13, 2023 (the “Joint Plan”) [D.I. 2217] and the Diocese filed the Disclosure Statement related thereto (the “Diocese Disclosure Statement”) [D.I. 2218].

K. Continental filed the *Continental Insurance Company’s First Amended Chapter 11 Plan of Reorganization for the Diocese of Rochester* (the “CNA Plan”) on October 3, 2023 [D.I. 2254] and the Disclosure Statement related thereto (the “CNA Disclosure Statement”) on October 2, 2023 [D.I. 2247].

L. On September 19, 2023, the Court entered its *Case Management Order Directing Parties to Meet and Confer to Formulate Joint Litigation Plan* (the “Case Management Order”) [D.I. 2226].

M. CNA has advised the Debtor and the Committee that it intends to file an adversary proceeding complaint (the “Administrative Treatment Complaint”) and/or an application for administrative expense treatment for a claim (the “Administrative Treatment Application”) based on the Diocese’s alleged breach of its proposed insurance settlement agreement with CNA [D.I. 190-4].

N. The Parties have agreed to a schedule for the litigation of matters set forth above, and the deadlines for discovery that the parties may conduct with respect to certain of the matters set forth above, as follows:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, subject to approval of the Court, as follows:

1. The Committee Derivative Standing Motion and CNA Derivative Standing

Opposition shall each be withdrawn without prejudice.

2. By no later than **October 30, 2023**, the Committee may submit a motion asking the Court to deny the Insurance Settlement Motion as moot. By no later than **November 22, 2023**, CNA may submit a brief opposing the Committee's motion. A hearing to consider whether the Insurance Settlement Motion should be denied as moot shall be held on **December 8, 2023 at 11:00 a.m.** prevailing Eastern time.

3. If the Court determines that the Insurance Settlement Motion should not be denied as moot, the hearing to consider the Insurance Settlement Motion shall be adjourned to the same date as the confirmation hearing. Notwithstanding any decision concerning whether the Insurance Settlement Motion should be denied as moot, all Parties reserve all rights concerning the Insurance Settlement Motion and the settlement agreement and related documentation.

4. CNA shall file the Administrative Treatment Complaint and/or the Administrative Treatment Application, if at all, by not later than **November 7, 2023**. The Debtor and the Committee may each submit separate consolidated motions to dismiss the Administrative Treatment Complaint and to disallow the Administrative Treatment Application as a matter of law (the "Administrative Treatment Objection") by not later than **December 22, 2023**. CNA may submit an opposition to the Administrative Treatment Objection by not later than **January 16, 2024**. A hearing to consider whether the Administrative Treatment Objection should be granted or denied shall be held on **January 30, 2024 at 11:00 a.m.** prevailing Eastern time.

5. Unless the Court determines that the Administrative Treatment Objections should be sustained in their entirety, the hearing to consider the Administrative Treatment Complaint and the Administrative Treatment Application shall be adjourned to the same date as the confirmation hearing. Nothing in this Order shall preclude any Party from filing a motion to estimate the amount, if any, of CNA's Administrative Treatment Complaint and/or the Administrative

Treatment Application (the “**Motion to Estimate**”). If a Motion to Estimate is filed no later than **January 30, 2024**, it shall be heard at the same date as the confirmation hearing. The Parties may seek discovery on issues concerning any anticipated Motion to Estimate beginning on the date specified in ¶12(a) below; provided, however, that nothing herein shall preclude any party from seeking supplemental discovery concerning any Motion to Estimate after such motion is filed.

6. The Diocese shall file a motion (the “**Diocese DS Motion**”) seeking approval of the Diocese Disclosure Statement and procedures for voting on the Joint Plan no later than **October 25, 2023**.

7. CNA shall file a motion (the “**CNA DS Motion**” and, with the Diocese DS Motion, the “**DS Motions**”) seeking approval of the CNA Disclosure Statement and procedures for voting on the CNA Plan no later than **October 25, 2023**.

8. A hearing on the DS Motions shall be held on **December 19, 2023 at 11:00 a.m.** prevailing Eastern time. Prior to the hearing, the Parties shall meet and confer to attempt to streamline the voting process. The deadline for any party to object to the DS Motions shall be **December 5, 2023**. The deadline for Parties to file responses to any objections to the DS Motions shall be **December 12, 2023**.

9. The following motions (collectively, the “**Adjourned Matters**”) shall be adjourned without date, subject to both the other provisions of this Order and any Party’s right to seek consideration of any such motion on a date that is no earlier than **15 days** after completion of the hearings on the approval of the Joint Plan and the CNA Plan. After the expiration of the **15-day** period, the Parties may then request the Court to set a status conference to address any or all of the Adjourned Matters:

- a. the CNA Claims Objections;
- b. the Committee CNA Claims Standing Motion;

- c. the RSA Motion; and
- d. the Diocese Claim objections.

10. The Parties may amend their respective plans to provide treatment for any of the Adjourned Matters, including dismissal thereof upon confirmation of such plan.

11. The Court shall schedule a hearing to consider confirmation of a plan or plans at the hearing on the DS Motions. Such hearing shall be on no less than **95 days'** notice after completion of the hearing on the DS Motions.

12. The parties shall apply the following discovery process for the hearing on (a) confirmation of the Parties' respective plans, (b) the Insurance Settlement Motion (if it has not previously been denied as moot), (c) the Administrative Treatment Complaint, the Administrative Treatment Application (if the Administrative Treatment Objection has not previously been sustained to an extent that makes litigation of CNA's request for an administrative claim unnecessary), and (d) the Motion to Estimate:

a. Initial Disclosures. Unless otherwise agreed to by the Parties, the Parties shall make their initial disclosures pursuant to FED. R. CIV. P. 26(a)(1) by the date that is **15 days** before the scheduled hearing on the DS Motions.

b. Discovery.

i. Initiation of Fact Discovery. The Parties may initiate fact discovery by the date that is **15 days** before the scheduled hearing on the DS Motions.

ii. Fact Discovery Cut-Off. All fact discovery in this matter shall be initiated so that it will be completed on or before **60 days** prior to the confirmation hearing.

iii. Disclosure of Expert Testimony.

1. Expert Reports. For the party who has the initial burden of proof on the subject matter, the initial FED. R. CIV. P. 26(a)(2) disclosure of expert testimony is due on or before **53 days** prior to the confirmation hearing. Any rebuttal reports shall be due **39 days** prior to the confirmation hearing. Reply expert reports from the party with the initial burden of proof are due on or before **25 days** prior to the confirmation hearing, and shall be limited to those issues (if any) raised for the first time in the opposing party's rebuttal report(s). No other expert reports will be permitted without either the consent of all parties or leave of the Court. Along with the submissions of the expert reports, the parties shall advise of the dates and times of their experts' availability for deposition.
2. All expert depositions shall be completed **14 days** prior to the confirmation hearing.
3. Objections to Expert Testimony. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), as incorporated in FED. R. EVID. 702, it shall be made by motion no later than **3 days** prior to the confirmation hearing, unless otherwise ordered by the Court. Such motions will be considered at the confirmation hearing.

13. Parties may file briefs in support of or opposition to confirmation of the CNA Plan

or the Joint Plan no later than **14 days** prior to the confirmation hearing. Reply briefs may be filed no later than **7 days** prior to the confirmation hearing.

14. If the outcome of voting on either plan would be impacted by allowance or disallowance of the Claims Objections, then the Court shall adjourn the confirmation hearing for a period of no less than **60 days** to allow parties to litigate the Claims Objections. The parties shall meet and confer regarding a separate scheduling order with respect to litigation of the Claims Objections. If the parties cannot agree, the Court will issue a scheduling order for such litigation. Any scheduling order regarding the Claims Objections shall provide for a hearing on the Committee CNA Claims Standing Motion.

15. Nothing in this Order shall modify, waive, or impact the Parties' rights concerning any of the Adjourned Matters before this Court or any issues concerning approval of the Diocese Disclosure Statement or the CNA Disclosure Statement or confirmation of either the Joint Plan or the CNA Plan, including the rights of CNA to object to confirmation of the Joint Plan on the basis that certain determinations, including, but not limited to, any determination as to the propriety of the Stipulated Judgments referred to in the Joint Plan, including whether Stipulated Judgments can be approved pursuant to Bankruptcy Rule 9019, must be decided in the "Insurance Adversary Proceeding" (Adv. Proc. No. 2-19-02021-PRW) and not as part of a contested matter involving plan confirmation or a motion under Rule 9019.

16. Nothing in this Order (a) precludes the Parties from jointly requesting modification of the dates set forth in this Order or any other provision of this Order or (b) precludes any single Party from requesting, for good cause shown, an extension of the dates set forth in this Order or modification of any other provision of this Order. If Debtor, the Committee, or any other party-in-interest challenges, through a separate motion or application, CNA's standing to file a disclosure statement or plan, seek confirmation of the CNA Plan, or object to the Diocese Disclosure

Statement or the Joint Plan (collectively, “CNA Standing”), the Court shall adjust the schedule set forth in this Order to the extent necessary and appropriate. For the avoidance of doubt, any objection or opposition to CNA Standing may be raised in any objection, response or pleading regarding approval of a disclosure statement or confirmation of a plan without effect on the schedule set forth in this Order.

17. The Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

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SO ORDERED:

Dated: October 23, 2023
Rochester, New York

/s/
THE HONORABLE PAUL R. WARREN
U.S. BANKRUPTCY JUDGE